

**IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF MASSACHUSETTS**

NUANCE COMMUNICATIONS, INC.,

Plaintiff and Counterclaim
Defendant,

v.

OMILIA NATURAL LANGUAGE
SOLUTIONS, LTD.,

Defendant and Counterclaim
Plaintiff.

Case No. 1:19-cv-11438-PBS

**AGREEMENT CONCERNING
OMILIA’S MOTION FOR A PROTECTIVE ORDER FROM NUANCE’S DISCOVERY
REQUESTS [D.N. 145] AND
NUANCE’S MOTION TO COMPEL OMILIA TO RESPOND TO NUANCE’S
DISCOVERY REQUESTS SUBJECT TO OMILIA’S MOTION FOR PROTECTIVE
ORDER [D.N. 167]**

In order to resolve the issues raised by Omilia's Motion for a Protective Order from Nuance's Discovery Requests [D.N. 145] and Nuance's Motion to Compel Omilia to Respond to Nuance's Discovery Requests Subject to Omilia's Motion for Protective Order [D.N. 167], the parties agree as follows:

Request for Production Nos. 199-204: As a response to Request for Production Nos. 199-204, Omilia agrees to run ESI search terms 51, 52 and 53, as specified below. Omilia agrees not to withhold any documents hit upon by these searches on the basis of relevance (with the exception of non-relevant personal materials that implicate GDPR issues, if any). Concerning the agreements between Omilia and Omilia customers that reference ownership of or rights to make, record, use or receive recordings of calls by human callers between January 1, 2011 and the present (*see* Request Nos. 199-200), Omilia represents that it fully expects that such agreements will be captured by the ESI search terms to the extent such agreements still exist, and that it believes such agreements are maintained in custodial repositories in the ordinary course. However, Omilia agrees to conduct a reasonable search of non-custodial sources for any such agreements to the extent they are not included in the custodial ESI production.

#	Search Term
51.	(TD OR Connex OR (McDonalds OR MCD) OR (FPL or "Florida Power") OR Piraeus OR ("Royal Bank of Canada OR RBC) OR Dish OR AON OR ("American Automobile Association" OR AAA) OR Bell OR McKinsey OR DFS OR Verizon OR Discover OR CIBC OR Alpha OR Alfa OR Piraeus OR Vodafone OR Vodaphone OR MTBank OR Euro OR EuroBank OR Future OR Cosmote OR Yoigo OR Forthnet OR Opap OR PDS OR DFS OR Wind* OR CDPHP OR CNX OR Luxottica OR KCELL OR JNCB OR NIT OR OTP* OR RendCredit OR FNB) AND ("call data" OR live OR audio)
52.	(Record* OR captur* OR train* OR collect* OR run* OR save*) AND ("call data" OR live OR audio OR model)
53.	("Call Recording System" OR "Call Center") AND (customer* OR client OR audio OR data) AND (Record* OR captur* OR train* OR collect* OR run* OR save*)

Request for Production No. 207: Omilia represents that it believes that the relevant discovery sought by Request for Production No. 207 is addressed by existing custodial ESI search terms, including search terms 7 and 38. Nuance agrees that search terms 7 and 38 are relevant to Request for Production No. 207, but notes that search term 7 was previously limited to a time period that does not include “the time periods covered by the 2011 Partner Agreement,” as requested in Request for Production No. 207. By contrast, Nuance notes that the timeframe for term 38 is not limited. Separately, Omilia has agreed to provide Nuance with discovery relating to its use of any of the files identified in the First Amended Complaint as allegedly downloaded by Omilia after termination of the Reseller Agreement. To the extent any dispute remains as to production in compliance with this request, the parties have agreed that this request be carved out of the present dispute and folded into the parties’ separate discussions regarding acoustic and language models.

Requests for Production Nos. 193, 194, and 198: The parties agree that these requests are addressed by existing custodial ESI search terms, including search terms 5, 21 and 38. Based on its investigation to date, Omilia represents that it is not aware of any non-custodial documents likely to have information responsive to these requests.

Requests for Production Nos. 189-192: The parties agree that these requests are adequately covered by other discovery Omilia has produced or agreed to produce, including custodial ESI.

Interrogatory No. 11: Nuance has agreed to withdraw Interrogatory No. 11, and Omilia agrees that Interrogatory No. 11 will not count towards Nuance’s total number of interrogatories.

Interrogatory No. 9: The parties have agreed to narrow the scope of Interrogatory No. 9, and Omilia has agreed to respond to the interrogatory as narrowed, to provide a response by December 4, 2020, providing the following information if known after a reasonable search and/or investigation:

- the identity of any customers from whom Omilia collected training data between January 2007 and December 2015;
- the language(s) used for each such deployment; and
- whether Nuance ASR Technology was used in the Omilia customer deployment from which such training data was collected.

Nuance reserves the right to further meet and confer with Omilia over the sufficiency of Omilia's response to Interrogatory No. 9 as narrowed.

Request for Admission Nos. 2, 3, 6, 7, 10-13: Omilia agrees to respond to Request for Admission Nos. 2, 3, 6, 7, 10, 11, 12, and 13, by December 2, 2020, and that its response to these RFAs will be based on its current knowledge after a reasonable investigation.

Request for Admission Nos. 4, 5, 8, 9: Nuance agrees to withdraw Request for Admission Nos. 4, 5, 8, and 9.

Respectfully submitted: November 4, 2020

/s/ Deborah M. Vernon

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***Counsel for Plaintiff Nuance Communications,
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served on all counsel of record for Defendant by electronic mail on November 4, 2020 pursuant to written agreement of the parties.

/s/ Christian E. Mammen
Christian E. Mammen